

C.A. No. 11-10511

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATE OF AMERICA,

Plaintiff/Appellee,

VS.

TYMOND PRESTON,

Defendant/Appellant.

CR No.11-10511-PHX-GMS
(District Court Judge G. Murray Snow)
District of Arizona

**MOTION OF APPELLANT’S COUNSEL
TO WITHDRAW AND APPELLANT’S
MOTION FOR APPOINTMENT OF
SUBSTITUTE COUNSEL**

ON APPEAL FROM AN ORDER OF
THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

JERRY HERNANDEZ
ATTORNEY AT LAW
BAR #13021
115 W. HU-ESTA DR.
TEMPE, AZ 85282
(480) 231-3053

Attorney for Defendant/Appellant Preston

Date: October 7, 2011

MEMORANDUM OF POINTS AND AUTHORITIES

Defense counsel respectfully petitions this court to appoint a new lawyer for Mr. Preston.

Instant defense counsel lacks the inclination, aptitude, or experience, to successfully pursue this appeal on behalf of Mr. Preston. Additionally, instant counsel speaks Spanish and is sorely needed in the trial court. Mr. Preston does not oppose this request. For these reasons instant counsel asks to leave to withdraw as counsel for Mr. Preston and that a new lawyer is appointed to prosecute his appeal.

RESPECTFULLY SUBMITTED this 7th day of October, 2011.

By: s/ Jerry Hernandez

JERRY M. HERNANDEZ
115 W. Hu-Esta Dr.
Tempe, Arizona 85282
BAR #13021

CERTIFICATE OF SERVICE

STATE OF ARIZONA)
)ss.
County of Maricopa)

U.S. Court of Appeals Docket Number(s): **No. 11-10511**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on October 7th, 2011.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

s/ Jerry Hernandez

CERTIFICATE OF SERVICE

STATE OF ARIZONA)
)ss.
County of Maricopa)

U.S. Court of Appeals Docket Number(s): **No. 11-10511**

I hereby certify that I hand delivered a copy of “**MOTION OF APPELLANT’S COUNSEL TO WITHDRAW AND APPELLANT’S MOTION FOR APPOINTMENT OF SUBSTITUTE COUNSEL**” to the appellant, Tymond Preston on October 7th, 2011.

s/ Jerry Hernandez

Hand delivered to:
Tymond Preston
30079-008
CCA